



General Assembly

January Session, 2007

***Raised Bill No. 7343***

LCO No. 5390

\*05390\_\_\_\_\_ENV\*

Referred to Committee on Environment

Introduced by:  
(ENV)

***AN ACT CONCERNING RIPARIAN CORRIDORS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-38 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in sections 22a-36 to 22a-45a, inclusive:

4 (1) "Commissioner" means the Commissioner of Environmental  
5 Protection;

6 (2) "Person" means any person, firm, partnership, association,  
7 corporation, limited liability company, company, organization or legal  
8 entity of any kind, including municipal corporations, governmental  
9 agencies or subdivisions thereof;

10 (3) "Municipality" means any town, consolidated town and city,  
11 consolidated town and borough, city and borough;

12 (4) "Inland wetlands agency" means a municipal board or  
13 commission established pursuant to and acting under section 22a-42;

14 (5) "Soil scientist" means an individual duly qualified in accordance  
15 with standards set by the federal Office of Personnel Management;

16 (6) "Material" means any substance, solid or liquid, organic or  
17 inorganic, including, but not limited to soil, sediment, aggregate, land,  
18 gravel, clay, bog, mud, debris, sand, refuse or waste;

19 (7) "Waste" means sewage or any substance, liquid, gaseous, solid or  
20 radioactive, which may pollute or tend to pollute any of the waters of  
21 the state;

22 (8) "Pollution" means harmful thermal effect or the contamination or  
23 rendering unclean or impure of any waters of the state by reason of  
24 any waste or other materials discharged or deposited therein by any  
25 public or private sewer or otherwise so as directly or indirectly to  
26 come in contact with any waters;

27 (9) "Rendering unclean or impure" means any alteration of the  
28 physical, chemical or biological properties of any of the waters of the  
29 state, including, but not limited to change in odor, color, turbidity or  
30 taste;

31 (10) "Discharge" means the emission of any water, substance or  
32 material into waters of the state whether or not such substance causes  
33 pollution;

34 (11) "Remove" includes, but shall not be limited to drain, excavate,  
35 mine, dig, dredge, suck, bulldoze, dragline or blast;

36 (12) "Deposit" includes, but shall not be limited to, fill, grade, dump,  
37 place, discharge or emit;

38 (13) "Regulated activity" means any operation within or use of a  
39 wetland, [or] watercourse or riparian corridor involving removal or  
40 deposition of material, or any obstruction, construction, alteration or  
41 pollution, of such [wetlands or watercourses] wetland, watercourse or  
42 riparian corridor, but shall not include the specified activities in section

43 22a-40;

44 (14) "License" means the whole or any part of any permit, certificate  
45 of approval or similar form of permission which may be required of  
46 any person by the provisions of sections 22a-36 to 22a-45a, inclusive;

47 (15) "Wetlands" means land, including submerged land, not  
48 regulated pursuant to sections 22a-28 to 22a-35, inclusive, which  
49 consists of any of the soil types designated as poorly drained, very  
50 poorly drained, alluvial, and floodplain by the National Cooperative  
51 Soils Survey, as may be amended from time to time, of the Natural  
52 Resources Conservation Service of the United States Department of  
53 Agriculture;

54 (16) "Watercourses" means rivers, streams, brooks, waterways,  
55 lakes, ponds, marshes, swamps, bogs and all other bodies of water,  
56 natural or artificial, vernal or intermittent, public or private, which are  
57 contained within, flow through or border upon this state or any  
58 portion thereof, not regulated pursuant to sections 22a-28 to 22a-35,  
59 inclusive. Intermittent watercourses shall be delineated by a defined  
60 permanent channel and bank and the occurrence of two or more of the  
61 following characteristics: (A) Evidence of scour or deposits of recent  
62 alluvium or detritus, (B) the presence of standing or flowing water for  
63 a duration longer than a particular storm incident, and (C) the  
64 presence of hydrophytic vegetation;

65 (17) "Feasible" means able to be constructed or implemented  
66 consistent with sound engineering principles;

67 (18) "Prudent" means economically and otherwise reasonable in  
68 light of the social benefits to be derived from the proposed regulated  
69 activity provided cost may be considered in deciding what is prudent  
70 and further provided a mere showing of expense will not necessarily  
71 mean an alternative is imprudent;

72 (19) "Riparian corridor" means an area of land beginning at the

73 boundary of a wetland or watercourse designated by the  
74 commissioner as a Class A or AA surface water pursuant to section  
75 22a-426 and ending at a parallel line located two hundred feet from  
76 such wetland or watercourse, measured horizontally from such  
77 boundary.

78       Sec. 2. Section 22a-42a of the general statutes is repealed and the  
79 following is substituted in lieu thereof (*Effective from passage*):

80       (a) The inland wetlands agencies authorized in section 22a-42 shall  
81 through regulation provide for (1) the manner in which the boundaries  
82 of inland wetland and watercourse areas in their respective  
83 municipalities shall be established and amended or changed, (2) the  
84 form for an application to conduct regulated activities, (3) notice and  
85 publication requirements, (4) criteria and procedures for the review of  
86 applications, and (5) administration and enforcement.

87       (b) No regulations of an inland wetlands agency including  
88 boundaries of inland wetland and watercourse areas shall become  
89 effective or be established until after a public hearing in relation  
90 thereto is held by the inland wetlands agency. Any such hearing shall  
91 be held in accordance with the provisions of section 8-7d. A copy of  
92 such proposed regulation or boundary shall be filed in the office of the  
93 town, city or borough clerk as the case may be, in such municipality,  
94 for public inspection at least ten days before such hearing, and may be  
95 published in full in such paper. A copy of the notice and the proposed  
96 regulations or amendments thereto, except determinations of  
97 boundaries, shall be provided to the commissioner at least thirty-five  
98 days before such hearing. Such regulations and inland wetland and  
99 watercourse boundaries may be from time to time amended, changed  
100 or repealed, by majority vote of the inland wetlands agency, after a  
101 public hearing in relation thereto is held by the inland wetlands  
102 agency, in accordance with the provisions of section 8-7d. Regulations  
103 or boundaries or changes therein shall become effective at such time as  
104 is fixed by the inland wetlands agency, provided a copy of such

105 regulation, boundary or change shall be filed in the office of the town,  
106 city or borough clerk, as the case may be. Whenever an inland  
107 wetlands agency makes a change in regulations or boundaries it shall  
108 state upon its records the reason why the change was made and shall  
109 provide a copy of such regulation, boundary or change to the  
110 Commissioner of Environmental Protection no later than ten days after  
111 its adoption provided failure to submit such regulation, boundary or  
112 change shall not impair the validity of such regulation, boundary or  
113 change. All petitions submitted in writing and in a form prescribed by  
114 the inland wetlands agency, requesting a change in the regulations or  
115 the boundaries of an inland wetland and watercourse area shall be  
116 considered at a public hearing held in accordance with the provisions  
117 of section 8-7d. The failure of the inland wetlands agency to act within  
118 any time period specified in this subsection, or any extension thereof,  
119 shall not be deemed to constitute approval of the petition.

120 (c) (1) On and after the effective date of the municipal regulations  
121 promulgated pursuant to subsection (b) of this section, no regulated  
122 activity shall be conducted upon any inland wetland or watercourse or  
123 within any riparian corridor without a permit. Any person proposing  
124 to conduct or cause to be conducted a regulated activity upon an  
125 inland wetland or watercourse or within a riparian corridor shall file  
126 an application with the inland wetlands agency of the town or towns  
127 wherein the wetland, [or] watercourse or riparian corridor in question  
128 is located. The application shall be in such form and contain such  
129 information as the inland wetlands agency may prescribe. The date of  
130 receipt of an application shall be determined in accordance with the  
131 provisions of subsection (c) of section 8-7d. The inland wetlands  
132 agency shall not hold a public hearing on such application unless the  
133 inland wetlands agency determines that the proposed activity may  
134 have a significant impact on wetlands, [or] watercourses or riparian  
135 corridors, a petition signed by at least twenty-five persons who are  
136 eighteen years of age or older and who reside in the municipality in  
137 which the regulated activity is proposed, requesting a hearing is filed  
138 with the agency not later than fourteen days after the date of receipt of

139 such application, or the agency finds that a public hearing regarding  
140 such application would be in the public interest. An inland wetlands  
141 agency may issue a permit without a public hearing provided no  
142 petition provided for in this subsection is filed with the agency on or  
143 before the fourteenth day after the date of receipt of the application.  
144 Such hearing shall be held in accordance with the provisions of section  
145 8-7d. If the inland wetlands agency, or its agent, fails to act on any  
146 application within thirty-five days after the completion of a public  
147 hearing or in the absence of a public hearing within sixty-five days  
148 from the date of receipt of the application, or within any extension of  
149 any such period as provided in section 8-7d, the applicant may file  
150 such application with the Commissioner of Environmental Protection  
151 who shall review and act on such application in accordance with this  
152 section. Any costs incurred by the commissioner in reviewing such  
153 application for such inland wetlands agency shall be paid by the  
154 municipality that established or authorized the agency. Any fees that  
155 would have been paid to such municipality if such application had not  
156 been filed with the commissioner shall be paid to the state. The failure  
157 of the inland wetlands agency or the commissioner to act within any  
158 time period specified in this subsection, or any extension thereof, shall  
159 not be deemed to constitute approval of the application.

160 (2) An inland wetlands agency may delegate to its duly authorized  
161 agent the authority to approve or extend an activity that is not located  
162 in a wetland, [or] watercourse or in a riparian corridor when such  
163 agent finds that the conduct of such activity would result in no greater  
164 than a minimal impact on any wetland, [or] watercourse or riparian  
165 corridor, provided such agent has completed the comprehensive  
166 training program developed by the commissioner pursuant to section  
167 22a-39. Notwithstanding the provisions for receipt and processing  
168 applications prescribed in subdivision (1) of this subsection, such agent  
169 may approve or extend such an activity at any time. Any person  
170 receiving such approval from such agent shall, within ten days of the  
171 date of such approval, publish, at the applicant's expense, notice of the  
172 approval in a newspaper having a general circulation in the town

173 wherein the activity is located or will have an effect. Any person may  
174 appeal such decision of such agent to the inland wetlands agency  
175 within fifteen days after the publication date of the notice and the  
176 inland wetlands agency shall consider such appeal at its next regularly  
177 scheduled meeting provided such meeting is no earlier than three  
178 business days after receipt by such agency or its agent of such appeal.  
179 The inland wetlands agency shall, at its discretion, sustain, alter or  
180 reject the decision of its agent or require an application for a permit in  
181 accordance with subdivision (1) of subsection (c) of this section.

182 (d) (1) In granting, denying or limiting any permit for a regulated  
183 activity the inland wetlands agency, or its agent, shall consider the  
184 factors set forth in section 22a-41, and such agency, or its agent, shall  
185 state upon the record the reason for its decision. In granting a permit  
186 the inland wetlands agency, or its agent, may grant the application as  
187 filed or grant it upon other terms, conditions, limitations or  
188 modifications of the regulated activity which are designed to carry out  
189 the policy of sections 22a-36 to 22a-45, inclusive. Such terms may  
190 include any reasonable measures which would mitigate the impacts of  
191 the regulated activity and which would (A) prevent or minimize  
192 pollution or other environmental damage, (B) maintain or enhance  
193 existing environmental quality, or (C) in the following order of  
194 priority: Restore, enhance and create productive wetland, [or]  
195 watercourse or riparian corridor resources. No person shall conduct  
196 any regulated activity within an inland wetland, [or] watercourse or in  
197 a riparian corridor which requires zoning or subdivision approval  
198 without first having obtained a valid certificate of zoning or  
199 subdivision approval, special permit, special exception or variance or  
200 other documentation establishing that the proposal complies with the  
201 zoning or subdivision requirements adopted by the municipality  
202 pursuant to chapters 124 to 126, inclusive, or any special act. The  
203 agency may suspend or revoke a permit if it finds after giving notice to  
204 the permittee of the facts or conduct which warrant the intended action  
205 and after a hearing at which the permittee is given an opportunity to  
206 show compliance with the requirements for retention of the permit,

207 that the applicant has not complied with the conditions or limitations  
208 set forth in the permit or has exceeded the scope of the work as set  
209 forth in the application. The applicant shall be notified of the agency's  
210 decision by certified mail within fifteen days of the date of the decision  
211 and the agency shall cause notice of their order in issuance, denial,  
212 revocation or suspension of a permit to be published in a newspaper  
213 having a general circulation in the town wherein the wetland or  
214 watercourse lies. In any case in which such notice is not published  
215 within such fifteen-day period, the applicant may provide for the  
216 publication of such notice within ten days thereafter.

217 (2) Any permit issued under this section for the development of  
218 property for which an approval is required under section 8-3, 8-25 or 8-  
219 26 shall be valid for five years provided the agency may establish a  
220 specific time period within which any regulated activity shall be  
221 conducted. Any permit issued under this section for any other activity  
222 shall be valid for not less than two years and not more than five years.  
223 Any such permit shall be renewed upon request of the permit holder  
224 unless the agency finds that there has been a substantial change in  
225 circumstances which requires a new permit application or an  
226 enforcement action has been undertaken with regard to the regulated  
227 activity for which the permit was issued provided no permit may be  
228 valid for more than ten years.

229 (e) The inland wetlands agency may require a filing fee to be  
230 deposited with the agency. The amount of such fee shall be sufficient  
231 to cover the reasonable cost of reviewing and acting on applications  
232 and petitions, including, but not limited to, the costs of certified  
233 mailings, publications of notices and decisions and monitoring  
234 compliance with permit conditions or agency orders.

235 (f) If a municipal inland wetlands agency regulates activities within  
236 areas around wetlands or watercourses or within riparian corridors,  
237 such regulation shall: (1) [be] Be in accordance with the provisions of  
238 the inland wetlands regulations adopted by such agency related to



239 application for, and approval of, activities to be conducted in wetlands  
240 or watercourses or within riparian corridors, and (2) apply only to  
241 those activities which are likely to impact or affect wetlands, [or]  
242 watercourses or riparian corridors.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	22a-38
Sec. 2	<i>from passage</i>	22a-42a

***Statement of Purpose:***

To define and protect riparian corridors to improve water quality and protect watersheds.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*